

Message Text

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ORIGIN AF-06

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DRAFTED BY AF/W-GADIES:DFP

APPROVED BY AF--WMULCAHY

OPIC-RSTERN (SUBS)

EB/IFD/OIA- TBRODERICK (SUBS)

AF/W-TWMSMITH

AFR/CWR-JMCLAUGHLIN

----- 114425

O 040021Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY NDJAMENA IMMEDIATE

C O N F I D E N T I A L STATE 052178

E.O. 11652: GDS

TAGS: EINV, CD, US

SUBJECT: AGRICOLA AGREEMENT WITH GOC

SUMMARY: AF DEPASSTSECY MULCAHY MET WITH AGRICOLA PRESIDENT LICHENSTEIN AND PARTNER KING ON MARCH 1 FOR REVIEW OF CURRENT STATUS OF AGRICOLA AGREEMENT WITH GOC. AGRICOLA IMPLIED THAT IT IS PREPARED TO FILE OPIC CLAIM IN VERY NEAR FUTURE IF IT DOES NOT RECEIVE CONCRETE SIGNS OF PROGRESS ON ITS TWO PRIMARY CONCERNS. THESE ARE (A) REVISION OF LONG-TERM AGREEMENT WITH GOC FOR OVERALL AGRICOLA PROJECT (COLLECTION OF WILD GUM, DEVELOPMENT OF PLANTATION, AND BUILDING OF PROCESSING PLANT) AND (B) ABILITY TO OBTAIN CHADIAN GUM DURING CURRENT GUM SEASON IN ORDER MAINTAIN CLIENTELE AGRICOLA HAS BUILT UP OVER LAST TWO YEARS. ANOTHER PRO-
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BLEM IS QUESTION OF BACK TAXES. AGRICOLA SAID THAT IF

CHADIANS FAIL TO MAKE PROGRESS ON FIRST TWO POINTS WITHIN NEXT WEEK, IT WILL FILE OPIC INSURANCE CLAIM FOR ITS INVESTMENT. AGRICOLA MENTIONED POSSIBILITY OF MOVING ENTIRE OPERATION TO CAMEROON IF CHADIANS PROVE OBSTINATE. END SUMMARY.

1. MULCAHY, LICHTENSTEIN, JOHN KING (AGRICOLA PARTNER FROM WYOMING), DICK MCCALL (STAFFER FROM SEN MCGEE'S OFFICE) AND DESKOFF MET MARCH 1 TO DISCUSS AGRICOLA CASE. MULCAHY EXPLAINED THAT FOLLOWING FEB 25 MEETING WITH ALINGUE ON SUBJECT

(BEING REPORTED SEPTEL), BOTH USG AND CHADIANS AGREED THAT VITAL INFORMATION WAS LACKING ON NATURE OF AGRICOLA'S AGREEMENTS WITH GOC. LICHTENSTEIN THEN GAVE DETAILED ACCOUNT OF EVOLUTION OF AGRICOLA'S AGREEMENTS WITH GOC, AND CLAIMED THAT GUM MARKETING MONOPOLY WAS PRACTICALLY FORCED UPON AGRICOLA BY LATE PRESIDENT TOMBALBAYE. LICHTENSTEIN NOTED THAT DURING HIS MOST RECENT TRIP TO CHAD, HE HAD SECURED VERBAL APPROVAL FOR AGRICOLA'S COUNTER-PROPOSAL FROM WORKING LEVEL OF SONACOT AND, DEPT OF FORESTS. ONLY MINISTER DJOGO WAS OPPOSED TO PLAN, AND HE ALLEGEDLY REJECTED IT OUT OF HAND. MULCAHY NOTED THAT DURING DJOGO FEB VISIT TO WASHINGTON AF ASSTSECY SCHAUFLELE HAD SECURED COMMITMENT FROM DJOGO TO REVIEW AGRICOLA PROBLEM UPON RETURNING TO NDJAMENA. LICHTENSTEIN OBSERVED THAT SINCE HIS RETURN, DJOGO HAD NOT DISCUSSED THE PROBLEM WITH EITHER AGRICOLA LOCAL REP OR WITH US EMBASSY. AGRICOLA FELT THAT GOC WAS NOT BEING RESPONSIVE TO NEED FOR PROMPT ACTION.

2. AGRICOLA THEN RAISED OTHER PRESSING CONCERN: EVEN IF

LONG TERM AGREEMENT CAN BE SALVAGED WITH GOC, AGRICOLA MAY STILL FACE INSURMOUNTABLE PROBLEMS IN FUTURE IF IT CANNOT MAINTAIN CLIENTS WHICH IT HAS WORKED VERY HARD TO SECURE OVER THE LAST TWO YEARS. AGRICOLA SAID IT WOULD BE CONTENT TO LEAVE THIS YEAR'S CROP OF WILD GUM TO SONACOT, AS LONG AS IT WOULD BE PERMITTED TO PURCHASE SUFFICIENT AMOUNT OF GUM FROM SONACOT FOR RESALE IN ORDER MEET ITS OWN COMMITMENTS.

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3. AGRICOLA THEN INDICATED ITS FEELING THAT GOC WOULD NOT BUDGE ON CASE UNLESS FURTHER PRESSURE WERE APPLIED. AGRICOLA THEREFORE PREPARED TO FILE OPIC CLAIM IF IT DOES NOT RECEIVE FAVORABLE SIGNS OF PROGRESS WITHIN ONE WEEK. AGRICOLA INDICATED THAT AN EVENTUAL OPIC REIMBURSEMENT OF ITS INVESTMENT IN CHAD COULD BE PUT TO PROFITABLE USE ELSEWHERE, AND CITED POSSIBLE OPERATION IN CAMEROON AS EXAMPLE. IN ADDITION, AGRICOLA ASKED THAT USG STRESS TO

CHADIANS THAT EXPROPRIATION STATUTES (TRADE ACT OF 1974, HICKENLOOPER AND GONZALES AMENDMENTS) MIGHT COME INTO FORCE IF NO SATISFACTORY AGREEMENT CAN BE WORKED OUT. AGRICOLA NOTED THAT IT DID NOT WISH TO BE INSTRUMENT FOR POSSIBLE CESSATION OF US AID TO CHAD, BUT FELT THAT IT HAD TO PROTECT ITS OWN INTERESTS.

4. AS FURTHER EVIDENCE OF CHADIAN LACK OF COOPERATION, AGRICOLA EXPLAINED IN DETAIL TWO AREAS OF OUTSTANDING DIS-AGREEMENT, PURCHASE OF GUM FROM SONACOT AND BACK TAXES. AGRICOLA STATED THAT SONACOT REFUSES TO SELL GUM TO AGRICOLA UNTIL SONACOT'S ALLEGATION REGARDING LETTER WRITTEN BY AGRICOLA TO GUM PURCHASERS OFFERING GUM AT BELOW-MARKET PRICE IS SATISFACTORILY ANSWERED. AGRICOLA DENIES EVER WRITING SUCH A LETTER, AND CLAIMS THIS IS A TRANSPARENT ATTEMPT BY CHADIANS TO FRUSTRATE AGRICOLA. SECONDLY, ON QUESTION OF BACK TAXES, AGRICOLA HAS LEARNED FROM ITS NDJAMENA OFFICE THAT IT POSSIBLY MAY BE LIABLE TO PAY BACK TAXES UNDER CHADIAN LAW SINCE IT IS UNCLEAR WHETHER IT WAS PROTECTED BY LOCAL INVESTMENT CODE UNTIL ITS STATUS HAD BEEN FORMALIZED BY OFFICIAL GOC DECREE. AGRICOLA FEELS THAT THIS IS ARBITRARY INTERPRETATION OF SEQUENCE OF EVENTS, AND SAYS THAT IT SIMPLY CANNOT PAY NEARLY DOLS 150,000 CLAIMED BY GOC IN BACK TAXES.

5. ACTION REQUESTED: THAT EMBASSY CONTACT EITHER MINISTER

DJOGO OR OTHER APPROPRIATELY HIGH-LEVEL GOC OFFICIAL FAMILIAR WITH AGRICOLA AFFAIR TO DETERMINE GOC VIEWS ON FOLLOWING:

A) CAN AGRICOLA PURCHASE SUFFICIENT AMOUNTS OF GUM FROM SONACOT IN IMMEDIATE FUTURE TO MEET ITS COMMITMENTS TO CONFIDENTIAL

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ITS CLIENTS?

B) WILL GOC PRESS CLAIM FOR BACK TAXES DURING FIRST YEAR OF AGRICOLA'S OPERATIONS WHEN, ACCORDING TO LICHTENSTEIN, AGRICOLA SHOULD BE EXEMPT UNDER TERMS OF INVESTMENT CODE?

C) WILL GOC RESPOND TO COUNTER-PROPOSAL SUBMITTED BY LICHTENSTEIN IN JANUARY?

EMBASSY SHOULD EXPLAIN THAT TO DATE USG INTEREST IN CASE ARISES FROM OPIC INSURANCE POLICY AGAINST EXPROPRIATION HELD BY AGRICOLA. AGRICOLA HAS NOT YET FILED A CLAIM, AND THUS OPIC HAS NOT YET DETERMINED WHETHER AGRICOLA HAS LIVED UP TO ITS COMMITMENTS IN CHAD. HOWEVER, EMBASSY SHOULD NOTE THAT IN EVENT OPIC DOES PAY AGRICOLA CLAIM,

IT THEN ASSUMES RESPONSIBILITY FOR PURSUIT OF ANY AGRICOLA
CLAIMS AGAINST GOC, ACCORDING TO TERMS OF 1965 INVESTMENT
GUARANTIES AGREEMENT BETWEEN CHAD AND US. EMBASSY MAY ALSO
DRAW ATTENTION OF GOC TO US STATUTES REGARDING EXPROPRIA-
TION. EMBASSY SHOULD EMPHASIZE THAT USG HAS NOT AT ALL
BEGUN TO CONSIDER WHETHER THESE WOULD APPLY. KISSINGER

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